

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7662

BILL NUMBER: HB 1758

DATE PREPARED: Mar 3, 1999

BILL AMENDED: Mar 3, 1999

SUBJECT: Prepaid funeral services.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: (Amended) This bill makes various amendments to provisions concerning the payment of funeral expenses, burial services, or merchandise in advance of need. This bill increases from 5% to 10% the transfer fee that may be charged to a successor seller for a contract executed before July 1, 1999.

Effective Date: July 1, 1999.

Explanation of State Expenditures: The proposal allows for "cash advance items" in prepaid funeral agreements. This provision would affect the state only to the extent that if a seller of pre-need funeral services defaulted on the contract due to the fact that the seller used portions of the cash advance and was subsequently unable or unavailable to provide the items, a claimant could appeal to the Cemetery Board to use funds from the Preneed Consumer Protection Fund to provide the items. Consumers are able to appeal to the fund under current law; however, allowing cash advance items could contribute to a situation in which the funding for certain items would not be available. The likelihood of this scenario is indeterminable. The fund, which has a cap of \$1,000,000, consists of fees paid by funeral directors to renew their licenses.

Explanation of State Revenues: (Revised) Under the proposal, a portion of the funeral director's renewal fees, which are currently paid into the Preneed Consumer Protection Fund, would be deposited with a trustee. This provision would eliminate future deposits into the fund.

Sellers of prepaid funeral contracts who violate the law commit a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in

the state General Fund.

Explanation of Local Expenditures: A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Professional Licensing Agency.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Michelle Smith, Fiscal Officer, and Charles Hear, Legal Counsel, Professional Licensing Agency, (317) 232-2510 and (317) 232-5954 respectively.